784 Ainu traditions about these.[56] To the Ainu the injunctions and traditions handed down from their ancestors were not to be violated and the chief of the village saw to it that they were maintained. Violations were punished in a manner that it was believed would appease the fury of God since it was held that the culprit already was undergoing a spiritual punishment. Those records which have been left concerning the punitive measures of the Ainu are limited to those which lay in the actual power of society to mete out and they do not bear on the important concept of punishment by God (for they believed that the violators of God's taboos were sufficiently punished by God himself and society did not interfere with this divine judgment but remedied only that which concerned itself). But as time passed the power of the taboo receded and the Ainu, in order to regulate their increasingly complex society adopted the same punishments for culprits that the Japanese practiced.

674 1192 627 696 The word "crime" in the Ainu language is either *Katopaku* ["to commit an offense which ought to be punished"] or *Uenburi* ["bad conduct"] and it seems that there existed no difference between a violation of the village law and a violation of religious morals. Therefore, penalty was imposed equally on all violations. Judgment of crime was sometimes made by mysterious means. There was the method of consulting the oracular wisdom of the maiden of a shrine[57] who was called *Tsusuguru* [a prophetress]. Judgments similar to the ancient Japanese *Kugatachi* wherein the accused takes a stone from boiling water with his bare hands were used and there was the judgment whereby bamboo grass was laid across the palm of the hand of the accused and atop the grass a red-hot stone or iron was placed. In the latter two methods any injury sustained by the accused was evidence of his guilt. The above were all practices in which it was considered that the judgment of God was being rendered. Torture was also used. The accused could be forced to down with one breath a large bowl of water. There was the tobacco torture which was chiefly used by women; there was the *Nitemare* [to stretch the arms] in which the accused was left with both arms outstretched and tied to a post; there was a combination of torture and religious ritual wherein the accused first drained a cup of water then the empty cup was placed atop his head. If he neither fell down nor the cup fell off his head he was set free.[58]

695 1787 683 Quarrels between two parties were resolved by debate. This was called *Charanke* [to argue] and if the winner could not be determined the debate continued furiously until one of the two collapsed. It has been said that, "If neither of the parties submitted to the

[56] Itō Yūichi, Hokubo minzoku no horitsu shisō oyobi kanshu (Customs and concepts of law in the North), *Shihō Kenkyū*, 17th ed., 26 ff.
[57] John Batchelor, *The Ainu and their folklore*, 284.
[58] *Ibid.*, 242-243.

[P.20(A)]

3: Hitchcock N-5 (1888) 1891 AB6 Ainu AB6

The height of the monuments varies from 3 to 6 feet, and depends upon the age and position of deceased. Monuments for women are plain posts, not so high as those accorded to men.

Mourning customs vary greatly in different parts of the island. The period of mourning may last three days, or as many years. This is a subject concerning which little seems to be known. Formerly it was the custom to burn the houses of the dead, but this is no longer done in Yezo.

PUNISHMENTS.

In the museum at Sapporo there is a collection of clubs, carved in rough relief, which the Ainos use in punishing wrong-doers. Their punishments are severe, but they do not take life, even for the crime of murder. The murderer is bound to a cross for a week, and, after his release, receives some good advice from the judge, when he again takes his place as an honorable citizen.

The clubs are used for punishing thefts and other crimes. The prisoner is stripped to the waist, and heavy blows are delivered upon the bare back. The Ainos also have certain trials to prove the innocence or guilt of the accused person, such as the trial by hot water, in which a stone must be picked from the bottom of a kettle of boiling water, and the trial by a heated iron, which is supposed not to burn the flesh of one wrongly accused. Mr. Batchelor states that a murderer has his nose and ears cut off, or the tendons of the feet severed. These cruel punishments are undoubtedly old practices no longer in vogue, although one can not speak very confidently as to the cause of their discontinuance, unless it be due to Japanese control. H. von Siebold has supposed, from these old customs that the Ainos were once a savage and warlike people. They may have been so, as one might infer from Japanese tradition, but it seems to me unsafe to make the assumption on the grounds suggested by Von Siebold. Their present character does not sustain it in any way. Sympathy, regard for physical suffering of others, are not early developments in human character. Lingering traces of savage heartlessness and cruelty are still recognized in the practices of our own children.

HUNTING AND FISHING.

Wild animals, as bears, deer, foxes, and many others, abound in the Yezo forests, while the sea yields an abundance of fish of an excellent quality. The Ainos are brave hunters, and they are largely dependent on the chase for their animal food and winter clothing. Their hunting implements, however, are of the rudest description. The bears of Yezo, which are the same as the brown or grizzly bear of North America, are large and dangerous. At certain seasons they do not hesitate to attack man, even entering the dwellings in search of food. These fe-

DEATH AND BURIAL

764 broken or severely damaged before leaving the house; the others are now broken before being placed in the grave.

766 When a pregnant woman died, before the grave was filled in an
843 elder or an old woman performed a rite called *uko-ni-charapa* (to-
[184] gether opening out). The abdomen was cut with a sickle to allow the soul of the infant to escape. In the north, I am reliably informed, it was pierced with a needle.

● 695 Before the Meiji Era, a suspected murderer was confronted with the body of his alleged victim in the open grave, and after an adjuration to the dead was compelled to undergo trial by ordeal, dipping his hand six times into boiling water. Other tests are said to have been drinking an infusion of tobacco or six large cups of plain water. Should there be no scalding or vomiting, the accused was acquitted.

764 For aged Ainu it is still customary to line the grave with matting,
178 even when a coffin is used. The upper edge of the matting is detached and folded over the coffin as the mat is, or was, over the body. Relatives, the nearest of kin first, take a handful of the earth dug from the grave and drop it in, and the other mourners then do the same. This is called *toi-toi a uko-chupo*, in this district (earth earth thus together replacing).

After this rite the grave is covered. At Shiraoi, in the second decade of this century, I saw a grave lined with matting with a sort of roof. The carrying-pole laid along the top served as a ridge-pole, and boards connecting it with the sides enclosed the grave, which was then covered with earth.

764 When the grave has been covered the stake which was driven into the bottom soil to make a hole for the insertion of the grave-post is removed, and the latter is set up. Then follows the purifica-
[789] tion of the grave from evil spirits or their malign influence, *toi-a*
[783] *epiru*. This is done by brushing with switches, but to make assurance doubly sure the magically potent *ihema* root, cut into small pieces, is thrown over the grave from near the grave-post. In other circumstances it is often chewed and spat out, the force of expulsion adding to its efficacy, but it would be dangerous to spit over the dead.

764 *The Ritual of the Grave-post*
778
[184] Learned elders regard the grave-post (*kuwa*) as an ancestral *shutu*
[532] *inau*. Formerly, in the north, posts up to a foot in diameter with